

FILED
SCRANTON

MAR 23 2012

Per 2
DEPUTY CLERK

MARGOLIS EDELSTEIN
BY: MARK T SHERIDAN, ESQUIRE
IDENTIFICATION NO. 92712
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ATTORNEYS FOR DEFENDANT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROX-ANN REIFER, assignee of : CIVIL ACTION - LAW
Donald Russo, Esquire, :
Plaintiff,

v.

WESTPORT INSURANCE :
CORPORATION, :
Defendant.

4: CV 12 0533

Judge _____

NO:

NOTICE OF REMOVAL

Defendant, Westport Insurance Corporation (“Westport”) (incorrectly named in the complaint as “Westport Insurance Company”), removes this action from the Court of Common Pleas of Lackawanna County, Pennsylvania, to the United States

District Court for the Middle District of Pennsylvania, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support, Westport states as follows:

Background

1. Plaintiff, Rox-Ann Reifer, initiated this action on March 1, 2012, by filing a Complaint against Westport in the Court of Common Pleas of Lackawanna County, Pennsylvania. In her Complaint, Ms. Reifer sues Westport as the assignee of Donald P. Russo, claiming that Westport breached a lawyers professional liability insurance policy that Mr. Russo's law firm purchased from Westport by denying coverage for an underlying legal malpractice lawsuit that Ms. Reifer filed against Mr. Russo. Ms. Reifer alleges that she obtained a judgment against Mr. Russo in the underlying lawsuit in the amount of \$4,251,516, which she claims she is entitled to recover from Westport in this action.

2. Westport received a copy of the Complaint, a Praeclipe for Summons¹, and a Notice to Defend and Claim Rights by certified mail on March 5, 2012. Copies of all documents received by Westport are attached hereto.

¹ Westport notes that, for reasons unknown, the Praeclipe for Summons bears a case number (12cv1411) different than the case number identified on the Complaint and Notice to Defend and Claim Rights (12cv1410). To the extent Ms. Reifer has initiated two separate actions against Westport in state court, Westport intends, by this notice, to remove both actions to this Court.

3. Westport now removes this action from the Court of Common Pleas of Lackawanna County, Pennsylvania, to this Court, based on diversity jurisdiction, 28 U.S.C. § 1332(a), because the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and is between citizens of different states.

4. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Court of Common Pleas of Lackawanna County, Pennsylvania, and is being served on Ms. Reifer, by and through her attorneys of record.

Diversity of Citizenship

5. Ms. Reifer is a Pennsylvania citizen.

6. Westport is a corporation incorporated under Missouri law, with its principal place of business in Kansas.

7. This action is, therefore, between citizens of different states.

Amount in Controversy

8. In this action, Ms. Reifer claims that she obtained a judgment against Mr. Russo in the amount of \$4,251,516, which she seeks to recover from Westport.

9. The amount in controversy, therefore, exceeds the sum of \$75,000, exclusive of interest and costs.

WHEREFORE, Westport removes this action from the Court of Common Pleas

of Lackawanna County, Pennsylvania, to the United States District Court for the Middle District of Pennsylvania, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Respectfully Submitted,

MARGOLIS EDELSTEIN

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CERTIFICATE OF SERVICE

I, MARK T. SHERIDAN, JR., ESQ., hereby certify that I have served a true and correct copy of the foregoing Notice of Removal under date of March 23, 2012, by mailing a copy of same in the US Mail, postage prepaid, to the following individuals:

David W. Knauer, Esquire
Knauer & Associates, L.S.C.
1542 Lookout Springs Drive
Colorado Springs, CO 80921
Attorney for Plaintiff

Chester R. Dudick, Jr., Esquire
Dudick & Decker, P.C.
1043 Wyoming Avenue
Forty Fort, PA 18704
Attorney for Plaintiff

Respectfully Submitted,

MARGOLIS EDELSTEIN

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